IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 3863 OF 2005

ALONGWITH

CRIMINAL APPLICATION NO. 3864 OF 2005

ALONGWITH

CRIMINAL APPLICATION NO. 3865 OF 2005

ALONGWITH

CRIMINAL APPLICATION NO. 3866 OF 2005

M/s. Hotel Matsyagandha & Ors ...Applicants

Versus

Bhandari Co-Operative Bank Ltd.
and another ...Respondents

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Mr. V.C. Ghosalkar, Advocate for Applicants.

Mr. U.V. Nikam, A.P.P. in Appln. No.3863/05.
Mr. V.B.Konde Deshmukh, A.P.P. in Appln. No.3864/05.
Mr. B.H. Mehta, A.P.P. in Appln. No.3865/05.
Ms. S.V. Gajare, A.P.P. in Appln. No.3866/05.

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CORAM: SMT. V.K. TAHILRAMANI, J.

DATED: 21ST OCTOBER, 2005

P. C.:-

1. Heard the learned advocate for the applicants and the learned A.P.P. for the State.

2. The applicants have prayed for quashing of proceedings relating to Criminal Case Nos. 2020/SS/2004, 2139/SS/2004, 2608/SS/2004 and

2019/SS/2004 which are pending in the Court of learned Additional Chief Metropolitan Magistrate, 29th Court, Dadar, Mumbai. In the said case, process has been issued against the applicants under Section 138 of Negotiable Instruments Act. The learned advocate for the applicants submitted that the learned Magistrate committed an error in issuing process and the said process deserves to be set aside. It is further submitted that if the process issued against the applicants is set aside, the proceedings in respect of the applicants would come to an end.

3. For the reasons recorded in the decision of this Court in the case of **V.K. Jain & Ors. Vs. Pratap Vs. Padode and Anr, reported in 2005(3) Mh.L.J. 778,** in my opinion, the applicants have an efficacious remedy of preferring revision against the order of Magistrate issuing process. Hence, in my view, it would be appropriate that the applicants prefer revision before the concerned Sessions Court against the order of the Magistrate issuing process.

4. Liberty is granted to the applicants to prefer revision before the concerned Sessions Court. The learned advocate for the applicants states that the necessary revision would be preferred within a period of four weeks from today. In view of this statement,

the trial Court shall not proceed with the trial for a period of four weeks from today.

5. On the necessary revision being preferred by the applicants before the concerned Sessions Court, the concerned Sessions Court shall dispose of the same on merits after hearing necessary parties.

6. Applications are disposed of.

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